

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

JOHN H. MURPHY,
Plaintiff,

v.

MILLARD C. FARMER, JR.,
Defendant.

CIVIL ACTION FILE
NO. 3:15-CV-00092-TCB

**PLAINTIFF JOHN MURPHY'S MOTION FOR ORDER
ADMINISTRATIVELY CLOSING CASE OR, ALTERNATIVELY,
EXTENDING MR. MURPHY'S FILING DEADLINES UNTIL AFTER THE
EXPIRATION, TERMINATION, OR LIFTING OF AUTOMATIC STAY**

On February 9, 2018, just prior to Plaintiff John Murphy filing his Motion for Attorney's Fees and supporting evidence with this Court, Defendant Millard C. Farmer, Jr., filed his "Plea of Stay in Bankruptcy." Dkt. 146. This filing stated that Mr. Farmer had filed bankruptcy that same day and that "this action is automatically stayed pursuant to the provisions of 11 U.S.C. § 362(a)." *Id.* Counsel has confirmed Mr. Farmer's filing of a Chapter 13 petition and that his case has been assigned No. 18-52363.

Under 11 U.S.C. § 362(a), the filing of a petition for bankruptcy automatically stays the "continuation . . . of a judicial . . . proceeding against the

debtor.” Under 11 U.S.C. § 362(k)(1), a debtor injured by a willful violation of the automatic stay “shall recover actual damages, including costs and attorneys’ fees, and, in appropriate circumstances, may recover punitive damages.” Accordingly, in light of Mr. Farmer’s filing of his bankruptcy petition and associated “Plea of Stay in Bankruptcy,” Mr. Murphy did not file his Motion for Attorney’s Fees on February 9.

Deborah L. Beacham, who previously had been a Defendant in this action, filed bankruptcy in July 2017. On July 31, 2017, after receiving notice of Ms. Beacham’s bankruptcy, this Court immediately ordered this case administratively closed. Dkt. 101. The Court has not yet, however, administratively closed this case following notice of Mr. Farmer’s bankruptcy on February 9.

On February 15, 2018, despite the automatic stay, attorney Ralph Goldberg entered an appearance on behalf of Mr. Farmer and moved for leave to file a brief in support of a Motion for New Trial that exceeds this Court’s page limitation requirements. Dkts. 147, 148. On February 21, Mr. Goldberg filed a Motion to Alter or Amend the judgment. Dkt. 149. Also on February 21, this Court granted Mr. Goldberg’s motion for leave to file an overlong brief in support of a Motion for New Trial. Dkt. 150. And on February 23, Mr. Goldberg filed his Motion for New Trial, supported by a 30-page brief. Dkt. 151.

Mr. Murphy fully intended and still intends to file his Motion for Attorney's Fees and to oppose Mr. Farmer's Motion to Alter or Amend and Motion for New Trial (as well as any other motions Mr. Farmer may file challenging the judgment). Given the automatic stay and the consequences for violating that stay, however, Mr. Murphy has refrained from submitting any filings in this Court until he has received appropriate authorization from the bankruptcy court. Mr. Murphy already has begun conferring with bankruptcy counsel to determine an appropriate course of action in accordance with the Bankruptcy Code.

In the event the Court does not administratively close this case (as it did in response to Ms. Beacham's bankruptcy), Mr. Murphy respectfully requests an order providing that any and all filing deadlines for Mr. Murphy have been stayed or extended until after the termination, expiration, or other lifting of the automatic stay, or should circumstances change which allow the action to proceed to disposition. *See* Dkt. 101.

Accordingly, Mr. Murphy requests an order administratively closing this case or, alternatively, staying all filing deadlines for Mr. Murphy until the automatic stay has expired, been lifted, or been terminated, and for such other and further relief or instructions that this Court may deem warranted.

Respectfully submitted, February 26, 2018.

s/ Wilmer Parker
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CERTIFICATE OF FONT AND POINT SELECTION

I hereby certify that the foregoing was prepared in Times New Roman font, 14 point type, in compliance with Local Rule 5.1(C).

CERTIFICATE OF SERVICE

I hereby certify I have electronically filed the foregoing using the District's CM/ECF system which will automatically send e-mail notification and forward a copy to counsel of record in this matter.

Dated: February 26, 2018.

s/ Wilmer Parker

WILMER PARKER

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